

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Case No.: 2:24-cv-2195-JAD-BNW

Mr. Clayton-M. Bernard-Ex,

Plaintiff

v.

D. Matthew Lay,

Defendant

**Order Denying Motion to Stay**

[ECF No. 11]

Clayton-M. Bernard-Ex sues his criminal-defense attorney D. Matthew Lay for his alleged ineffective assistance and other misconduct during a 2017 Las Vegas Justice Court matter.<sup>1</sup> Bernard-Ex moves to stay this case, arguing that his filing for Chapter 7 bankruptcy protection on December 4, 2024, triggered an automatic stay under 11 U.S.C. § 362(a).<sup>2</sup>

But the automatic stay does not work that way. The Ninth Circuit has made clear that the stay provided by § 362 “does not prevent a plaintiff/debtor from continuing to prosecute its own claims nor does it prevent a defendant from protecting its interests against claims brought by the debtor.”<sup>3</sup> “This is true, even if the defendant’s successful defense will result in the loss of an allegedly valuable claim asserted by the debtor.”<sup>4</sup> So, because Bernard-Ex initiated this action, and there are no claims in this case against him,

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<sup>1</sup> ECF No. 8.

<sup>2</sup> ECF No. 11.

<sup>3</sup> *In re Palmdale Hills Property, LLC*, 654 F.3d 868, 875 (9th Cir. 2011).

<sup>4</sup> *Id.*

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